

Remarks

Claims 1-8 remain pending in this application. New claims 5 through 8 have been added to the present application. The new claims do not add new matter to the application, and support for the new claims is found in the original application at page 9, lines 9-15.

Concurrently submitted with this response is a Request for Continued Examination ("RCE"), along with the requisite fee.

In the Office Action of June 11, 2003, the examiner rejected claims 1-4 under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,437,024 to French ("French") in view of U.S. Patent No. 6,055,487 to Margery ("Margery"). Applicant respectfully traverses this rejection in view of the remarks presented herein.

Claims 1 and 2

With respect to claims 1 and 2, the examiner specifically argues that French discloses "storing the formatted data in a file for extraction by the external monitoring facility" as claimed in claims 1 and 2 of the present application. The examiner cites French column 20, lines 45-50 as teaching "the data stream is saved in a file and the data file is extracted to send to the printer." (Office Action, page 5, last paragraph)

In fact, the examiner has omitted critical language from French in his citation, as column 20, lines 46-47 of French actually state "the received digital data stream is saved in a temporary file and queued", French makes absolutely no reference to "and the data file is extracted." In fact, reading just slightly further in French (column 20, lines 49-53) indicates that in the system of French, "step 152 checks whether the contents of the queued file are to be printed, and step 153 sends the queued file to the printer if the response to the check in step 152

is affirmative." Thus, the system of French determines whether the temporarily queued file should or should not be sent to the printer.

Even in an alternative configuration described in French (column 20, lines 55-60), the print file may be distributed by the system or printed as is, or both. Further references in French (column 27, lines 5-26) indicate that the temporary file may be distributed to either printers or fax machines, and may be temporarily queued until the designated time to print or fax the report occurs.

There is, however, no teaching, suggestion, or disclosure in French that the file is stored, for later extraction by a remote station, as in claims 1 and 2 of the present application.

With respect to storing the data file, French discloses only temporarily queuing a print file until a designated print time occurs. As is well known in the computer science art, queued files are not "stored" in the typical sense of that word. Queuing of files allows a computer to temporarily write an intermediate file to memory or disc so that the computer processor can return to its processing tasks while the queued file is printed. Thus, the queued file can be sent to a relatively slow output device, such as a printer, without tying up the computer processor. Once the queued file has been printed, it is deleted, and is not saved or available for later retrieval.

French makes the temporary nature of this file even more abundantly clear by referring to the file print file as a "temporary file" that may be queued to a printer or fax machine. Thus, the "temporary file" of French is not a "stored" file which can later be extracted by a remote facility as is set forth in claims 1 and 2 of the present application.

Furthermore, there is no teaching, suggestion, or disclosure in French of storing a file for extraction by the external monitoring facility as in claims 1 and 2 of the present

application. The plain English meaning of the phrase "extraction by the external monitoring facility" is that the external monitoring facility is doing the extraction. French does not teach a system in which the remote station can extract a file from the system. French, in fact, teaches just the opposite, namely a system which automatically distributes reports to remote printers and fax machines without any control on the part of the remote station. Even the examiner's rejection of claims 1 and 2 indicates that French in fact teaches sending the data file to the printer, rather than the remote facility extracting the data file - "French's reference teach ... the data stream is saved in a file and the data file is extracted to send to the printer" (Office Action, page 5, last paragraph). Thus, the examiner's understanding of French appears to agree with Applicant's understanding, namely that the system of French sends the data file to the printer, the printer does not extract the data file from the system.

Thus, the examiner's assertion that French discloses the step of storing a data file for extraction by the external monitoring facility is erroneous, and the examiner's rejection of claims 1 and 2 should be withdrawn.

Claims 1-4

With respect to claims 1-4 of the present application, the examiner argues that French discloses all of the steps of the claims except for the step of obtaining data indicative of outputs of a group of laboratory instruments. The examiner also argues that Margery discloses the step of obtaining data indicative of outputs of a group of laboratory instruments, and that it would have been obvious to one having ordinary skill in the art to modify French to include the step of indicating of the data outputs. The examiner further states that the motivation to make this modification to French is suggested by Margery as a means to troubleshoot instrument errors from a remote site.

As Applicant has noted in a previous response, French is directed to a computer-generated information distribution system (see Title, French). As described in French, identifying information is automatically extracted from a received report, then the report is automatically transmitted to the intended recipient (see Abstract lines 15-21, French). French further describes how the destination information is automatically determined based on information extracted from the report itself, and the report is distributed according to that destination information (col. 4, lines 11-17, French).

Margery, on the other hand, is directed to an interactive analysis system whereby data at central laboratory may be accessed from remote locations (Abstract, lines 1-6, Margery). As described in Margery, dedicated remote computers may request data from the central server databases, and may then display such data (col. 4, lines 58-1).

Thus, French and Margery represent two antithetical approaches to data management. French teaches automatically processing a report at a central station and then automatically sending the report to a remote location, while Margery teaches transferring data to a remote location only upon receipt of a request from that remote station.

No Suggestion to Combine

Examiner Thai argues that it would have been obvious to modify the automated information distribution system of French to include the indicating of data outputs taught in Margery, the motivation being the ability to "trouble shoot instrument errors from a remote site" as suggested in Margery.

First, the remote trouble shooting described in Margery (column 10, lines 14-19) describes trouble shooting of a single instrument. The real-time scan of Margery can monitor the response of "the analyzer" of interest, this scan allows the ability to troubleshoot instrument

(singular) errors from a remote site (Margery, column 10, lines 14-19). There is absolutely no disclosure, teaching, or suggestion in Margery of obtaining data indicative of outputs of a group of laboratory instruments, even in the "trouble shooting" mode cited by the examiner.

Second, a "trouble shooting" mode as taught in Margery is non-sensical with respect to French. French teaches the automatic distribution of information reports based on a received data stream. There is no communication path back from the recipient of the information report to any particular instrument which may have produced the data contained within the report. French simply teaches a method of distributing the information contained in a received data stream, there is no control of the analytical instruments from which the data originated. Thus, there can be no motivation in Margery to provide a "trouble shooting" feature to French, when French does not teach control of the analytical instruments, but teaches only distributing information from a data stream.

As stated in MPEP §2143.01, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Since there is absolutely no disclosure, suggestion, or teaching in either French or Margery that would lead one of skill in the art to combine the automatic report distribution process in French with the data only upon request system as taught in Margery, the examiner's combination of these references is improper, and the rejection of claims 1-4 should be withdrawn.

Intended Function is Destroyed

Furthermore, as stated in MPEP § 2143.01, if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. As previously discussed,

French teaches an automatic information distribution system in which a received data stream is formatted and routed to a destination recipient, such destination recipient being determined from information in the received data stream (French, column 4, lines 9-17). Margery, on the other hand, teaches an interactive control system whereby analytical instruments can be separately remotely controlled based upon input from the remote user.

If implemented, the examiner's suggested modification of French to include obtaining data indicative of a group of laboratory instruments in order to allow trouble shooting instrument errors from a remote site as taught in Margery would render French inoperative. French teaches automatically distributing information from a received data stream based upon information contained in that data stream. The reports are distributed to recipients automatically, without any input or request on the part of the recipient. Combining a trouble shooting mode as taught in Margery in which the remote user can access the individual analytical instruments would defeat the non-interactive, automatic distribution method taught by French.

First, as discussed above, there is no control of the individual analytical instruments which provide the data that is compiled into the received data stream of French. Thus, as discussed above, it is nonsensical to even provide a trouble-shooting mode in French.

Second, even assuming for the sake of argument that communication with the analytical instrument could occur in French, implementing a troubleshooting mode would render French's automatic distribution inoperative. French teaches automatically distributing a report to recipients based on information contained within a received data stream. Adding a mode in which the system of French had to wait on requests or responses from the end user would defeat the automatic distribution functionality of French.

Thus, for this reason too, the examiner's combination of the references is improper, and the rejection of claims 1-4 should be withdrawn.

References Teach Away from Combination

Finally, as stated in MPEP §2145, it is improper to combine references where the references teach away from their combination. French teaches a system in which a central system automatically sends reports to remote stations. Margery teaches a system in which data is sent from a central system to a remote station only upon request from the remote station. These two approaches are antithetical. The examiner argues that he is only citing a portion of Margery for the proposition that it is known in the art to obtain data from the laboratory instruments because it would allow trouble shooting instruments from remote sites. These methods are, in fact, opposite and incompatible. The automatic system of French teaches away from the interactive system of Margery, and vice versa. For this additional reason, the examiner's combination of these references is improper, and the rejection of claims 1-4 should be withdrawn.

Claims 5-8

New claims 5 and 6 are dependent upon claim 1, and include limitations not previously claimed in the application. New claims 7 and 8 are dependent upon claim 3, and include limitations not previously claimed in the application. These new claims do not add new matter to the application, support for the new claims is found in the original application at page 9, lines 9-15.

In view of the foregoing remarks, it is respectfully submitted that all claims of the application are now in condition for allowance and eventual issuance. Such action is respectfully requested. Should the examiner have any further questions or comments which need be

addressed in order to obtain allowance, he is invited to contact the undersigned attorney at the number listed below.

Acknowledgement of receipt is respectfully requested.

Respectfully submitted,

By: 

Mark C. Young, Reg. No. 48,670
STINSON MORRISON HECKER LLP
1201 Walnut, Suite 2800
Kansas City, MO 64106-2150
Telephone: (816) 842-8600
Facsimile: (816) 691-3495
Attorney for Applicant